



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,946	12/17/1999	STUART WRIGHT	CS1062#SP	9569

7590 02/14/2002

BRUCE S SHAPIRO TW199
PATENT DEPARTMENT
THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD
TOWSON, MD 21286

EXAMINER

TRAN, KIM N

ART UNIT PAPER NUMBER

3724

DATE MAILED: 02/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/465,946

Applicant(s)

WRIGHT, STUART

Examiner

Kim N Tran

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12 and 16 is/are allowed.
- 6) ☒ Claim(s) 13 and 15 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. This office action is response to Applicant's Appeal Brief filed on December 12, 2001. After further consideration, the finality of the last office action is withdrawn.

Below is a new action.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites that the sole plate is in one position in which the sole plate is in contact with the workpiece and in a second position in which the sole plate is not in contact with the workpiece. However, from figures 12 and 13 the structural feature (50) part of the sole plate is in contact with the workpiece at all times.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Atkinson. Atkinson discloses the same invention including a body (10), motor (11), blade (16), pivotable sole plate (15) to be held in a plurality of positions in which one position the sole plate is in contact with the workpiece (fig. 7), second position in which the sole plate is out of contact with the workpiece (fig. 6), and lockable in any one position (col. 3, lines 3-5).

Response to Arguments

6. Applicant's arguments have been fully considered but they are not persuasive. The Applicant contends that the sole plate of Atkinson is in contact with the workpiece at all time. However, in the claimed invention, figures 12 and 13 show that the structural feature (50) part of the sole plate is in contact with the workpiece at all times which is essentially what the Atkinson reference teaches. Therefore, the Atkinson reference teaches the limitations of the claimed invention.

For the reasons above, the rejection is deemed proper.

7. The Applicant is suggested to amend the claims such that a "sole plate surface" is in contact with the workpiece in one position and not in contact with the workpiece in the second position or similar limitations be amended to the claims to distinguish the claimed invention from Atkinson.

Allowable Subject Matter

8. Claims 9-12 and 16 are allowed.

Art Unit: 3724


9. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim N Tran whose telephone number is 703-305-2597. The examiner can normally be reached on Alternate Mondays, Tuesday-Friday from 8-5:30 pm.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3590 for regular communications and 703-305-9835 for After Final communications.

12. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


knt
February 11, 2002


M. Rachuba
Primary Examiner